

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 326  
House Committee Substitute Favorable 6/30/16

Short Title: Local Gov'ts/Bldgs/Structures/Inspections. (Public)

Sponsors:

Referred to:

March 19, 2015

A BILL TO BE ENTITLED

AN ACT REVISING THE CONDITIONS UNDER WHICH COUNTIES AND CITIES MAY  
INSPECT BUILDINGS OR STRUCTURES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 153A-364 reads as rewritten:

"§ 153A-364. ~~Periodic inspections~~Inspections for hazardous or unlawful conditions.

(a) The inspection department may make ~~periodic~~ inspections, subject to the board of commissioners' directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its territorial jurisdiction. Except as provided in subsection (b) of this section, the inspection department may make ~~periodic~~ inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. For purposes of this section, the term "reasonable cause" means any of the following: (i) the ~~landlord or owner~~property has a history of more than ~~two~~four verified violations of the housing ordinances or codes within a rolling 12-month period; (ii) there has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected; (iii) the inspection department has actual knowledge of an unsafe condition within the building; or (iv) violations of the local ordinances or codes are visible from the outside of the property. In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multifamily ~~buildings~~buildings or between owner-occupied and tenant-occupied buildings. In exercising these powers, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

(b) A county may require ~~periodic~~ inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the county commissioners. However, the total aggregate of targeted areas in the county at any one time shall not be greater than one square mile or five percent (5%) of the area within the county, whichever is greater. A targeted area designated by the county shall reflect the county's stated neighborhood revitalization strategy and shall consist of property that meets the definition of a "blighted area" or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a), respectively, except that for purposes of this subsection the planning commission is not required to make a determination as to the property. The county shall ~~not discriminate in its selection of areas or housing types to be targeted and shall~~ (i) provide notice to all owners and residents of properties in the affected area about the ~~periodic~~ inspections plan and



1 information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the  
2 plan; and (iii) establish a plan to address the ability of low-income residential property owners to  
3 comply with minimum housing code standards. A residential building or structure that is subject to  
4 periodic inspections by the North Carolina Housing Finance Agency (hereinafter "Agency") shall  
5 not be subject to ~~periodic~~ inspections under this subsection if the Agency has issued a finding that  
6 the building or structure is in compliance with federal standards established by the United States  
7 Department of Housing and Urban Development to assess the physical condition of residential  
8 property. The owner or manager of a residential building or structure subject to periodic  
9 inspections by the Agency shall, within 10 days of receipt, submit to the inspection department a  
10 copy of the Compliance Results Letter issued by the Agency showing that the residential building  
11 or structure is in compliance with federal housing inspection standards. If the owner or manager  
12 fails to submit a copy of the Compliance Results Letter as provided in this subsection, the  
13 residential building or structure shall be subject to ~~periodic~~ inspections as provided in this  
14 subsection until the Compliance Results Letter is submitted to the inspection department.

15 (c) In no event may a county do any of the following: (i) adopt or enforce any ordinance  
16 that would require any owner or manager of rental property to obtain any permit or permission  
17 from the county to lease or rent residential real ~~property~~, property or to register rental property with  
18 the county, except for those individual rental units that have either more than ~~three~~ four verified  
19 violations of housing ordinances or codes in a rolling 12-month period or two or more verified  
20 violations in a rolling 30-day period, or upon the property being identified within the top ~~40~~ ten  
21 percent (10%) of properties with crime or disorder problems as set forth in a local ordinance; (ii)  
22 require that an owner or manager of residential rental property enroll or participate in any  
23 governmental program as a condition of obtaining a certificate of ~~occupancy~~; or (iii) ~~except as~~  
24 ~~provided in subsection (d) of this section,~~ occupancy; (iii) levy a special fee or tax on residential  
25 rental property that is not also levied against other commercial and residential  
26 ~~properties~~ properties, unless expressly authorized by general law or applicable only to an  
27 individual rental unit or property described in clause (i) of this subsection and the fee does not  
28 exceed five hundred dollars (\$500.00) in any 12-month period in which the unit or property is  
29 found to have verified violations; (iv) provide that any violation of a rental registration ordinance  
30 is punishable as a criminal offense; or (v) require any owner or manager of rental property to  
31 submit to an inspection before receiving any utility service provided by the city. For purposes of  
32 this section, the term "verified violation" means all of the following:

33 (1) The aggregate of all violations of housing ordinances or codes found in an  
34 individual rental unit of residential real property during a 72-hour period.

35 (2) Any violations that have not been corrected by the owner or manager within 21  
36 days of receipt of written notice from the county of the violations. Should the  
37 same violation occur more than two times in a 12-month period, the owner or  
38 manager may not have the option of correcting the violation. If the housing  
39 ordinance or code provides that any form of prohibited tenant behavior  
40 constitutes a violation by the owner or manager of the rental property, it shall  
41 be deemed a correction of the tenant-related violation if the owner or manager,  
42 within 30 days of receipt of written notice of the tenant-related violation, brings  
43 a summary ejectment action to have the tenant evicted.

44 (d) ~~A county may levy a fee for residential rental property registration under subsection (e)~~  
45 ~~of this section for those rental units which have been found with more than two verified violations~~  
46 ~~of housing ordinances or codes within the previous 12 months or upon the property being~~  
47 ~~identified within the top 10% of properties with crime or disorder problems as set forth in a local~~  
48 ~~ordinance. The fee shall be an amount that covers the cost of operating a residential registration~~  
49 ~~program and shall not be used to supplant revenue in other areas. Counties using registration~~  
50 ~~programs that charge registration fees for all residential rental properties as of June 1, 2011, may~~  
51 ~~continue levying a fee on all residential rental properties as follows:~~

- 1           (1) For properties with 20 or more residential rental units, the fee shall be no more  
2 than fifty dollars (\$50.00) per year.  
3           (2) For properties with fewer than 20 but more than three residential rental units,  
4 the fee shall be no more than twenty five dollars (\$25.00) per year.  
5           (3) For properties with three or fewer residential rental units, the fee shall be no  
6 more than fifteen dollars (\$15.00) per year.

7           (e) If a property is identified by the county as being in the top ten percent (10%) of  
8 properties with crime or disorder problems, the county shall notify the landlord of any crimes,  
9 disorders, or other violations that will be counted against the property to allow the landlord an  
10 opportunity to attempt to correct the problems. In addition, the county and the county sheriff's  
11 department shall assist the landlord in addressing any criminal activity, which may include  
12 testifying in court in a summary ejection action or other matter to aid in evicting a tenant who  
13 has been charged with a crime. If the county or the county sheriff's department does not cooperate  
14 in evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or  
15 disorder problem as set forth in the local ordinance, and the property may not be included in the  
16 top ten percent (10%) of properties as a result of that tenant's behavior or activity.

17           (f) If the county takes action against an individual rental unit under this section, the owner  
18 of the individual rental unit may appeal the decision to the housing appeals board, if created under  
19 G.S. 160A-446, or the planning board, if created under G.S. 153A-321, or if neither is created, the  
20 county manager or the county manager's designee. The board or manager shall fix a reasonable  
21 time for hearing appeals, shall give due notice to the owner of the individual rental unit, and shall  
22 render a decision within a reasonable time. The owner may appear in person or by agent or  
23 attorney. The board or manager may reverse or affirm the action, wholly or partly, or may modify  
24 the action appealed from, and may make any decision and order that in the opinion of the board or  
25 manager ought to be made in the matter."

26           **SECTION 2.** G.S. 160A-424 reads as rewritten:

27           "**§ 160A-424. ~~Periodic inspections.~~Inspections for hazardous or unlawful conditions.**

28           (a) The inspection department may make ~~periodic~~ inspections, subject to the council's  
29 directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or  
30 structures within its territorial jurisdiction. Except as provided in subsection (b) of this section, the  
31 inspection department may make ~~periodic~~ inspections only when there is reasonable cause to  
32 believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a  
33 residential building or structure. For purposes of this section, the term "reasonable cause" means  
34 any of the following: (i) the ~~landlord or owner~~property has a history of more than ~~two~~four verified  
35 violations of the housing ordinances or codes within a rolling 12-month period; (ii) there has been  
36 a complaint that substandard conditions exist within the building or there has been a request that  
37 the building be inspected; (iii) the inspection department has actual knowledge of an unsafe  
38 condition within the building; or (iv) violations of the local ordinances or codes are visible from  
39 the outside of the property. In conducting inspections authorized under this section, the inspection  
40 department shall not discriminate between single-family and multifamily ~~buildings~~buildings  
41 between owner-occupied and tenant-occupied buildings. In exercising this power, members of the  
42 department shall have a right to enter on any premises within the jurisdiction of the department at  
43 all reasonable hours for the purposes of inspection or other enforcement action, upon presentation  
44 of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in  
45 accordance with State fire prevention code or as otherwise required by State law.

46           (b) A city may require ~~periodic~~ inspections as part of a targeted effort to respond to  
47 blighted or potentially blighted conditions within a geographic area that has been designated by  
48 the city council. However, the total aggregate of targeted areas in the city at any one time shall not  
49 be greater than one square mile or five percent (5%) of the area within the city, whichever is  
50 greater. A targeted area designated by the city shall reflect the city's stated neighborhood  
51 revitalization strategy and shall consist of property that meets the definition of a "blighted area" or

1 "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a),  
2 respectively, except that for purposes of this subsection the planning commission is not required to  
3 make a determination as to the property. The municipality shall not discriminate in its selection of  
4 areas or housing types to be targeted and city shall (i) provide notice to all owners and residents of  
5 properties in the affected area about the periodic inspections plan and information regarding a  
6 public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and (iii) establish a  
7 plan to address the ability of low-income residential property owners to comply with minimum  
8 housing code standards. A residential building or structure that is subject to periodic inspections  
9 by the North Carolina Housing Finance Agency (hereinafter "Agency") shall not be subject to  
10 periodic inspections under this subsection if the Agency has issued a finding that the building or  
11 structure is in compliance with federal standards established by the United States Department of  
12 Housing and Urban Development to assess the physical condition of residential property. The  
13 owner or manager of a residential building or structure subject to periodic inspections by the  
14 Agency shall, within 10 days of receipt, submit to the inspection department a copy of the  
15 Compliance Results Letter issued by the Agency showing that the residential building or structure  
16 is in compliance with federal housing inspection standards. If the owner or manager fails to submit  
17 a copy of the Compliance Results Letter as provided in this subsection, the residential building or  
18 structure shall be subject to periodic inspections as provided in this subsection until the  
19 Compliance Results Letter is submitted to the inspection department.

20 (c) In no event may a city do any of the following: (i) adopt or enforce any ordinance that  
21 would require any owner or manager of rental property to obtain any permit or permission from  
22 the city to lease or rent residential real ~~property, property~~ or to register rental property with the city,  
23 except for those ~~properties individual rental units~~ that have either more than ~~three four~~ verified  
24 violations in a rolling 12-month period or two or more verified violations in a rolling 30-day  
25 period, or upon the property being identified within the top ~~40% ten percent (10%)~~ of properties  
26 with crime or disorder problems as set forth in a local ordinance; (ii) require that an owner or  
27 manager of residential rental property enroll or participate in any governmental program as a  
28 condition of obtaining a certificate of occupancy; or (iii) except as provided in subsection (d) of  
29 this section, (iii) levy a special fee or tax on residential rental property that is not also levied  
30 against other commercial and residential ~~properties properties~~, unless expressly authorized by  
31 general law or applicable only to an individual rental unit or property described in subdivision (i)  
32 of this subsection and the fee does not exceed five hundred dollars (\$500.00) in any 12-month  
33 period in which the unit or property is found to have verified violations; (iv) provide that any  
34 violation of a rental registration ordinance is punishable as a criminal offense; or (v) require any  
35 owner or manager of rental property to submit to an inspection before receiving any utility service  
36 provided by the city. For purposes of this section, the term "verified violation" means all of the  
37 following:

- 38 (1) The aggregate of all violations of housing ordinances or codes found in an  
39 individual rental unit of residential real property during a 72-hour period.  
40 (2) Any violations that have not been corrected by the owner or manager within 21  
41 days of receipt of written notice from the city of the violations. Should the same  
42 violation occur more than two times in a 12-month period, the owner or  
43 manager may not have the option of correcting the violation. If the housing  
44 ordinance or code provides that any form of prohibited tenant behavior  
45 constitutes a violation by the owner or manager of the rental property, it shall  
46 be deemed a correction of the tenant-related violation if the owner or manager,  
47 within 30 days of receipt of written notice of the tenant-related violation, brings  
48 a summary ejectment action to have the tenant evicted.

49 (d) ~~A city may levy a fee for residential rental property registration under subsection (c) of~~  
50 ~~this section for those rental units which have been found with more than two verified violations of~~  
51 ~~local ordinances within the previous 12 months or upon the property being identified within the~~

1 ~~top 10% of properties with crime or disorder problems as set forth in a local ordinance. The fee~~  
2 ~~shall be an amount that covers the cost of operating a residential registration program and shall not~~  
3 ~~be used to supplant revenue in other areas. Cities using registration programs that charge~~  
4 ~~registration fees for all residential rental properties as of June 1, 2011, may continue levying a fee~~  
5 ~~on all residential rental properties as follows:~~

6 (1) ~~For properties with 20 or more residential rental units, the fee shall be no more~~  
7 ~~than fifty dollars (\$50.00) per year.~~

8 (2) ~~For properties with fewer than 20 but more than three residential rental units,~~  
9 ~~the fee shall be no more than twenty five dollars (\$25.00) per year.~~

10 (3) ~~For properties with three or fewer residential rental units, the fee shall be no~~  
11 ~~more than fifteen dollars (\$15.00) per year.~~

12 (e) If a property is identified by the city as being in the top ten percent (10%) of properties  
13 with crime or disorder problems, the city shall notify the landlord of any crimes, disorders, or  
14 other violations that will be counted against the property to allow the landlord an opportunity to  
15 attempt to correct the problems. In addition, the city and the city's police department or, if the city  
16 has no police department, the county sheriff's department shall assist the landlord in addressing  
17 any criminal activity, which may include testifying in court in a summary ejectment action or  
18 other matter to aid in evicting a tenant who has been charged with a crime. If the city, the city's  
19 police department, or where applicable the county sheriff's department does not cooperate in  
20 evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or  
21 disorder problem as set forth in the local ordinance, and the property may not be included in the  
22 top ten percent (10%) of properties as a result of that tenant's behavior or activity.

23 (f) If the city takes action against an individual rental unit under this section, the owner of  
24 the individual rental unit may appeal the decision to the housing appeals board, if created under  
25 G.S. 160A-446, or the planning board, if created under G.S. 160A-361, or if neither is created, the  
26 city manager or the city manager's designee. The board or manager shall fix a reasonable time for  
27 hearing appeals, shall give due notice to the owner of the individual rental unit, and shall render a  
28 decision within a reasonable time. The owner may appear in person or by agent or attorney. The  
29 board or manager may reverse or affirm the action, wholly or partly, or may modify the action  
30 appealed from, and may make any decision and order that in the opinion of the board or manager  
31 ought to be made in the matter."

32 **SECTION 3.** This act is effective when it becomes law.